

Bill No. 16-01
Concerning: Board of Appeals -
Attorney's Fees
Revised: 3-30-01 Draft No. 1
Introduced: April 24, 2001
Expires: October 24, 2002
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Denis and Leggett and Council President Ewing

AN ACT to:

- (1) require the County to reimburse certain prevailing parties in appeals from decisions of the Board of Appeals involving the grant or denial of a variance; and
- (2) generally amend the law regarding the reimbursement of attorney's fees to parties in cases before the Board of Appeals.

By adding

Montgomery County Code
Chapter 2, Administration
Section 2-114A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Chapter 2 is amended by adding Section 2-114A:

2-114A. Attorney's Fees.

The Director of Finance must reimburse the prevailing party in an appeal from a decision of the Board of Appeals granting or denying a variance for the expense of pursuing that appeal if the County Attorney certifies that:

- (a) the Circuit Court or other appellate court reversed the Board's decision without remanding the case to the Board;
- (b) the party clearly prevailed on an important unsettled issue of law with implications beyond the interests of the immediate parties; and
- (c) the expenses for which reimbursement is sought are limited to court costs actually incurred and a reasonable attorney's fee for pursuing the appeal, and do not include the expense of any proceeding before the Board and any previous appeal.

Sec. 2. Applicability. Section 2-114A of the County Code, added by Section 1 of this Act, applies to any appeal from the Board of Appeals which a court decided on or after January 1, 1999.

Approved:

Blair G. Ewing, President, County Council

Date

Approved:

Douglas M. Duncan, County Executive

Date

This is a correct copy of Council action.

Mary A. Edgar, CMC, Clerk of the Council

Date